IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1614 OF 2004

Vilas Baburao Wagh & Ors. ...Petitioners
vs.
Jagdish Balwant Kedar & anr. ...Respondents

Mr.J.G.Reddy for the Petitioners
Ms M.M.Deshmukh,A.P.P. for Respondent No.2-State
Mr.H.E.Palwe for the Respondent No.1

CORAM: A.S.OKA,J.
DATE : SEPTEMBER 27,2005

P.C.:

1. Heard Advocate for the Petitioners, learned A.P.P. for State and the learned Counsel for Respondent No.1. Notice for final disposal has alrady been issued.

2. The Respondent No.1 filed a private complaint in which the present Petitioners are impleaded as accused. By order dated 24th May 2002 the learned Chief Judicial Magistrate, Nashik dismissed the complaint filed by the Respondent No.1. Being aggrieved by the said order, the Respondent No.1 preferred a Revision Application before the Sessions Court. By order dated 21st February 2003, the 3rd Additional Sessions Judge allowed the Revision Application and directed that process be issued under Sections 465, 466, 468, 474, 417 read with Section 34 of the Indian Penal Code. This Judgment and Order has been impugned by the Petitioners in the present Petition under Article 227 of Constitution of India.

3. The learned Advocate for the Petitioners submitted that when the private complaint was dismissed by the learned Chief Judicial Magistrate, the order of dismissal could not have been interfered with in Revision Application without making the Petitioners as party-Respondents to the Revision Application. It is submitted that the rights of the Petitioners will be vitally affected by the impugned order.

4. The learned Counsel for the Respondent No.1 fairly stated that in view of the submissions made by the learned Counsel for the Petitioners, that the Revision Application may be remanded to the Sessions Court and he will make the Petitioners as party-Respondents in the said Revision Application.

5. In view of the aforesaid submission, following order is passed :

i) Impugned Judgment and order dated 21st February 2003 is quashed and set aside and the Revision Application No.328 of 2002 is restored to file.

ii) Respondent No.1 will amend the Revision Application for impleading the present Petitioners (proposed accused in the complaint) as party Respondents.

iii) After impleading the Petitioners as party respondents, the learned Additional Sessions Judge will decide the Revision Application afresh in accordance with law after hearing all the parties.

iv) It is made clear that the impugned order dated 21st February 2003 is not set aside on merits but only on the ground that the Petitioners were not made parties to the Revision Application.

v) All contentions of the parties are kept open.

vi) Parties and the concerned Court to act upon an authenticated copy of this order.

JUDGE

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